

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 10-CV-11457-GAO

MITCHELL KENNEDY and)
MICHELLE KENNEDY, as mother)
And next friend of DYLAN KENNEDY)
Plaintiffs,)
)
Vs.)
)
TOWN OF BILLERICA, DANIEL C.)
ROSA, JR., Individually and as Chief of)
the Billerica Police Department,)
STEVEN ELMORE, ROBERT T.)
MORAN, JR., JEFFREY C. STRUNK,)
GLEN MAGNAN, WILLIAM)
MACDONALD, and JOHN DOE)
Defendants.)
)

**DEFENDANTS' EMERGENCY
MOTION TO QUASH DEPOSITION NOTICE**

Discovery in this matter closed in August of 2012. The case was originally set for trial for April 22, 2013. On March 6, 2013 the plaintiffs filed a Motion to Continue the trial on the grounds that the appeal of the Conviction of Dylan Kennedy was still pending. On April 22, 2013 this Court conducted a status conference at which it set the trial of this matter for July 29, 2013, and scheduled a pre trial conference for July 18, 2013. Both parties reported that they were ready for trial.

On July 10, 2013, without any prior communication from the plaintiffs' counsel defendants' counsel received a "Notice of Deposition" for a witness named Harold Gannon scheduled for July 17 in Richmond Virginia. On July 10, 2013, plaintiffs filed a letter "informing" the Court that they were taking this deposition and intended to use the testimony at trial.

The plaintiffs' counsel did not seek permission from this Court in order to schedule this deposition, nor did he seek or obtain an agreement from defendants' counsel. The deposition is untimely, was noticed without leave of court, and will cause the defendants to incur added expense and inconvenience.

Wherefore, the defendants hereby ask this Court to quash this deposition.

Respectfully submitted,
The Defendants,
By their attorneys,

Leonard H. Kesten, BBO No. 542042
Jeremy Silverfine, BBO No. 542779
BRODY, HARDOON, PERKINS & KESTEN, LLP
One Exeter Plaza
Boston, MA 02116
(617) 880-7100
jsilverfine@bhpklaw.com
lkesten@bhpklaw.com

CERTIFICATE OF SERVICE

I hereby certify that this document was filed through the ECF system and will therefore be sent electronically to the registered participants as identified on the Notice of Electric Filing (NEF) and paper copies will be sent this day to those participants indicated as non-registered participants.

/s/ Leonard H. Kesten
Leonard H. Kesten, BBO #542042

Dated: July 15, 2013